

May 17, 2006

TX DEPT OF INS DIV OF WC
AUSTIN, TX 78744-1609

CLAIMANT: ___

EMPLOYEE: ___

POLICY: M2-06-1271-01

CLIENT TRACKING NUMBER: M2-06-1271-01-5278

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Department of Insurance Division of Workers Compensation (DWC) has assigned the above mentioned case to MRIOA for independent review in accordance with DWC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the DWC approved doctor list (ADL). The reviewing provider has no known conflicts of interest existing between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

Records Received:

Records from state:

Notification of IRO Assignment 5/8/06
Letter to MRIOA from DWC 5/5/06
Medical Dispute Resolution Request/Response form
Forte request for service
Forte notice of intent to issue an adverse determination 3/14/06
Forte notice of utilization review findings 3/15/06, 3/21/06
Forte acknowledgement of reconsideration request 3/20/06

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Records from requestor:

Letter from the office of Michael Peck, DC 5/15/06
Lumbar Spine MRI report 8/29/05
Radiology report 9/6/05
Office notes and nerve conduction studies, Sherif Ramzy, MD 11/29/05
Consultation, David Strausser, MD 11/28/05
Procedure Routing Form 1/30/06
H&P, Stephen Sims, MD 3/2/06

Record from respondent:

Letter for MRIOA from State office of Risk Management 5/11/06
Initial Patient Record, 7/20/05
SOAP notes, 7/21/05 – 3/29/06
Emergency Department records 7/18/05
Lumbar Spine MRI report 8/29/05
Radiology report 9/6/05
Medical reports, Dr. Peck 9/29/05, 11/17/05, 1/3/06, 1/24/06
Referrals for Evaluation, 10/26/05, 3/8/06
Consultation, David Strausser, MD 11/28/05
Letter from David Strausser, MD 11/28/05
Office notes and nerve conduction studies, Sherif Ramzy, MD 11/29/05
Department of Workers Compensation Request for Procedure 1/5/06
Procedure note, 1/6/06
Evaluation, Jasmin Erlichman, MD, 1/16/06
Office note, David Strausser MD 1/30/06
Office note, Stephen Sims, MD 3/2/06
Forte notice of utilization review findings 3/15/06, 3/21/06
Forte letters to patient, 3/15/06, 3/21/06
Case notes
Preauthorization review, 3/14/06
Forte request for service
Procedure Routing Form 1/30/06
Forte letters of agreement 3/13/06, 3/17/06
Narrative reports
Forte notice of intent to issue an adverse determination 3/14/06
Email from Talina Tovar, 3/21/06
Appeal Notice, 3/21/06
Forte acknowledgement of reconsideration request 3/20/06

Summary of Treatment/Case History:

The patient is a 42 year-old female injured in _____. She had PT and chiropractic care for 8 months without relief. MRI of 8/05 showed an intervertebral herniation at the L2 vertebra with marked derangement of the disc at that level. It also showed posterior herniated nucleus pulposus (HNP) L5/S1

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with annular tear. EMG of 1/05 showed strong bilateral S1 radiculopathy. Clinically she complained of low back pain on the left with intermittent paresthesias. She had sensory deficit in the S1 dermatome per the neurologist, but normal sensory exam by her surgeon. Dr. Strausser (although he found weakness in the left leg, but negative straight leg raise). In 3/06 he notes positive straight leg raise, but normal strength. In 1/06 the patient was seen by a pain specialist, who found a positive straight leg raise and motor deficit in the S1 dermatome, but normal sensory testing. This MD notes that the the MRI report recommended: "Clinical correlation advised for active discogenic pain syndromes at L1-2." Dr. Strausser did a caudal ESI in 1/06 with no relief, and in 3/06 recommends a discogram at L3-S1. This has been denied twice because the MRI shows significant pathology at L1/2 .

Questions for Review:

1. Preauthorization was denied for L3-4 and L5-S1 discogram and CT. Are these medically necessary?

Explanation of Findings:

Not only does the patient have gross pathology on MRI at L1-2 level (which will not be evaluated by this discogram), but her findings are constantly changing depending on who examines her, and when. Sometimes straight leg raise is negative, sometimes positive; sometimes there is motor weakness, sometimes not; sometimes there is sensory deficit, sometimes not. While the L5-S1 level also shows pathology on MRI, prior to investigating that, one should look into the much more impressive pathology at L1-2 to see if that is causing her pain.

Conclusion/Decision to Not Certify:

1. Preauthorization was denied for L3-4 and L5-S1 discogram and CT. Are these medically necessary?

No. The L3-4 and L5-S1 discogram and CT are not medically necessary.

Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:

Common practice among pain and osteopathic physicians.

References Used in Support of Decision:

1. ACOEM guidelines 2004 pg 303-305. Reference #1 states: "Recent studies on discography do not support its use as a preoperative indication for either IDET or fusion."
2. Neurosurg Focus 2002 Aug;13(2):E12 Guidelines for the use of discography for the diagnosis of painful degenerative lumbar disc disease. Resnick DK.
Ref #2 states: "Recently, its usefulness has been questioned because of the occurrence of false-positive results as well as the influence of psychological factors on test results."
3. Reg Anesth Pain Med 2005 Mar-Apr;30(2):163083 Lumbar discography: a comprehensive review of outcome studies, diagnostic accuracy, and principles. Cohen SP.
Ref #3 states: "Although discography, especially combined with CT scanning, may be more accurate than other radiologic studies in detecting degenerative disc disease, its ability to improve surgical outcomes has yet to be proven."

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4. Spine J 2005 Jan–Feb;5(1):24–35

Discographic, MRI and psychosocial determinants of low back pain disability and remission: a prospective study in subjects with benign persistent back pain.

Carragee EJ, This reference states: “A positive provocative discogram at baseline did not predict any future adverse event.”

The physician providing this review is board certified in Anesthesiology and is a doctor of Osteopathy. The reviewer is currently an attending physician at a major medical center providing anesthesia and pain management services. The reviewer has participated in undergraduate and graduate research. The reviewer has been in active practice since 1988.

Your Right To Appeal

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

Chief Clerk of Proceedings / Appeals Clerk

P. O. Box 17787

Austin, TX 78744

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the DWC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIOA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

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The written opinions provided by MRloA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRloA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRloA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

1228633.1

Case Analyst: Valerie O ext 554

cc: Requestor
Respondent